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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **KIMBERLY BYERS ADAMS**  
14 **a.k.a. KIMBERLY B ADAMS**  
15 **1501 Engle Drive**  
16 **Macon, Georgia 31211**

17 **Registered Nurse License Number 595308**

18 **Respondent.**

Case Number *2013-856*

**A C C U S A T I O N**

19 Complainant Louise R. Bailey, M.Ed., R.N., alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the Executive  
22 Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

23 2. On or about February 27, 2002, the Board issued Registered Nurse License Number  
24 595308 to respondent Kimberly Byers Adams, a.k.a. Kimberly B Adams. This registered nurse  
25 license was in full force and effect at all times relevant to the charges brought in this Accusation.  
26 It expired on January 31, 2008, and has not been renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board under the authority of the following  
laws. All section references are to the Business and Professions Code unless otherwise indicated.

1       4.     Section 118, subdivision (b), provides:

2       “The suspension, expiration, or forfeiture by operation of law of a license issued by a board  
3     in the department, or its suspension, forfeiture, or cancellation by order of the board or by order  
4     of a court of law, or its surrender without the written consent of the board, shall not, during any  
5     period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its  
6     authority to institute or continue a disciplinary proceeding against the licensee upon any ground  
7     provided by law or to enter an order suspending or revoking the license or otherwise taking  
8     disciplinary action against the licensee on any such ground.”

9       5.     Section 2750 provides:

10      “Every certificate holder or licensee, including licensees holding temporary licenses, or  
11     licensees holding licenses placed in an inactive status, may be disciplined as provided in this  
12     article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this  
13     article, ‘license’ includes certificate, registration, or any other authorization to engage in practice  
14     regulated by this chapter. The proceedings under this article shall be conducted in accordance  
15     with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
16     Government Code, and the board shall have all the powers granted therein.”

17      6.     Section 2759 provides:

18      “The board shall discipline the holder of any license, whose default has been entered or  
19     who has been heard by the board and found guilty, by any of the following methods:

20      “(a) Suspending judgment.

21      “(b) Placing him upon probation.

22      “(c) Suspending his right to practice nursing for a period not exceeding one year.

23      “(d) Revoking his license.

24      “(e) Taking such other action in relation to disciplining him as the board in its discretion  
25     may deem proper.”

26      7.     Section 2764 provides:

27      “The lapsing or suspension of a license by operation of law or by order or decision of the  
28     board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the

1 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding  
2 against such license, or to render a decision suspending or revoking such license.”

### 3 STATUTORY AUTHORITY

4 8. Section 2761 provides, in pertinent part:

5 “The board may take disciplinary action against a certified or licensed nurse or deny an  
6 application for a certificate or license for any of the following:

7 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

8 . . .

9 “(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action  
10 against a health care professional license or certificate by another state or territory of the United  
11 States, by any other government agency, or by another California health care professional  
12 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that  
13 action.”

### 14 COST RECOVERY

15 9. Section 125.3 provides, in pertinent part:

16 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
17 proceeding before any board within the department or before the Osteopathic Medical Board,  
18 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
19 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
20 to exceed the reasonable costs of the investigation and enforcement of the case.

21 . . .

22 “(i) Nothing in this section shall preclude a board from including the recovery of the costs  
23 of investigation and enforcement of a case in any stipulated settlement.”

### 24 DRUGS

25 10. “Fentanyl” is a Schedule II controlled substance under to Health and Safety Code  
26 section 11055, subdivision (c)(8), and is a dangerous drug within the meaning of Business and  
27 Professions Code section 4022. It is a narcotic (opioid) analgesic used for producing anesthesia  
28 for surgery and treating pain before, during, and after surgery.

1 **FACTUAL BACKGROUND**

2 11. Respondent is a registered professional nurse in Georgia under license number  
3 RN101919 (Georgia license).

4 12. On or about July 15, 2004, respondent and the Georgia Board of Nursing (Georgia  
5 Board) entered into a Consent Order entitled *In the Matter of: Kimberly Byers Adams, License*  
6 *No. RN101919*, Case Number 64CA-EB-1039995, in which respondent admitted to diverting  
7 Fentanyl for her own use in 2003 and 2004. The Georgia Board suspended respondent's Georgia  
8 license for one year, but withheld enforcement of the suspension and placed her Georgia license  
9 on four years' probation subject to terms and conditions.

10 13. On or about February 15, 2013, respondent and the Georgia Board entered into a In a  
11 Public Consent Order entitled *In the Matter of: Kimberly Byers Adams, License No. RN101919*,  
12 Docket Number 2013-0218, in which respondent admitted that she had diverted medications from  
13 her employer for her own personal use and had entered a substance abuse treatment program.  
14 The Georgia Board publically reprimanded respondent and limited her Georgia license by  
15 removing her right to access and administer controlled drug substances for four years.  
16 Respondent also must comply with other terms and conditions, including but not limited to  
17 treatment and random drug tests.

18 **CAUSES FOR DISCIPLINE**

19 **FIRST CAUSE FOR DISCIPLINE**  
20 **Bus. & Prof. Code, § 2761, subd. (a)(4)**  
**Unprofessional Conduct: Out-of-State Disciplinary Action**

21 14. The allegations of paragraphs 11-12 are realleged and incorporated by reference as if  
22 fully set forth.

23 15. Respondent has subjected her California registered nurse license to disciplinary action  
24 under section 2761, subdivision (a)(4), for the unprofessional conduct of sustaining a disciplinary  
25 action by another state or territory of the United States or by any other government agency. As  
26 set forth in paragraphs 11-12 above, respondent and the Georgia Board entered into a Consent  
27 Order in 2004 in which respondent admitted to diverting Fentanyl for her own use in 2003 and  
28 2004. The Georgia Board suspended for one year respondent's Georgia license, but withheld

1 enforcement of the suspension and placed her Georgia license on four years' probation subject to  
2 conditions.

3 **SECOND CAUSE FOR DISCIPLINE**  
4 **Bus. & Prof. Code, § 2761, subd. (a)(4)**  
5 **Unprofessional Conduct: Out-of-State Disciplinary Action**

6 16. The allegations of paragraphs 11 and 13 are realleged and incorporated by reference  
7 as if fully set forth.

8 17. Respondent has subjected her California registered nurse license to disciplinary action  
9 under section 2761, subdivision (a)(4), for the unprofessional conduct of sustaining a disciplinary  
10 action by another state or territory of the United States or by any other government agency. As  
11 set forth in paragraphs 11 and 13 above, respondent and the Georgia Board entered into a Public  
12 Consent Order in 2013 in which the Georgia Board publically reprimanded respondent and  
13 limited her Georgia license by removing her right to access and administer controlled drug  
14 substances for four years.

15 **PRAYER**

16 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this  
17 Accusation, and that following the hearing the Board issue a decision:

18 1. Revoking or suspending California Registered Nurse License Number 595308, issued  
19 to respondent Kimberly Byers Adams, a.k.a. Kimberly B Adams;

20 2. Ordering respondent Kimberly Byers Adams, a.k.a. Kimberly B Adams, to pay the  
21 Board the reasonable costs of the investigation and enforcement of this case pursuant to Business  
22 and Professions Code section 125.3; and

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: April 3, 2013

*Louise R. Bailey*  
25 LOUISE R. BAILEY, M.Ed., R.N.  
26 Executive Officer  
27 Board of Registered Nursing  
28 Department of Consumer Affairs  
State of California  
Complainant

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